

1 Susan J. Welde (SBN 205401)  
swelde@murchisonlaw.com  
2 Benjamin H. Seal II (SBN 64582)  
bseal@murchisonlaw.com  
3 **MURCHISON & CUMMING, LLP**  
801 South Grand Avenue, Ninth Floor  
4 Los Angeles, California 90017-4613  
Telephone: (213) 623-7400  
5 Facsimile: (213) 623-6336

6 Attorneys for Subrogating Insurer,  
FEDERAL INSURANCE COMPANY

7 UNITED STATES DISTRICT COURT

8 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

10 RUBEN JUAREZ, an individual and  
11 ISELA HERNANDEZ, an individual,

12 Plaintiffs,

13 vs.

14 PRECISION VALVE &  
AUTOMATION, INC., a corporation  
15 and DOES 1-20, ,

16 Defendants.

CASE NO. 2:17-cv-03342-ODW-GJS

**AMENDED NOTICE OF  
NULLIFICATION OF  
SETTLEMENT FOR FAILURE TO  
NOTIFY WORKERS  
COMPENSATION EMPLOYER  
PER CALIFORNIA LABOR CODE  
3860(a) AND DECLARATION OF  
BENJAMIN H. SEAL II, LIEN  
HOLDER COUNSEL IN SUPPORT  
OF SAID NOTICE.**

17 Trial Date: None Set

18 DECLARATION OF BENJAMIN H. SEAL II

19 I, Benjamin H. Seal II, declare and state:

20 I am an attorney-at-law and Of Counsel for the law offices Murchison &  
21 Cumming, LLP. who have been retained by Federal Insurance Company to represent  
22 it in connection with a workers compensation lien that has been previously served  
23 upon the parties to this action and has most recently has been filed with this Court. I  
24 am admitted to the practice of law to the Courts in the State of California and have  
25 been admitted to this District Court.

26 / / /

27 / / /

1       2. I am one of the attorneys who has been assigned to this case and I am  
2 familiar with the issues involved herein and if called as a witness I would so testify.

3       3. Federal Insurance Company is the workers compensation carrier for  
4 Space Exploration Technologies Inc., a.k.a. "SpaceX" who was the employer of the  
5 Ruben Juarez, a plaintiff in a personal injury action transferred to and is presently  
6 pending in this Court.

7       4. Mr. Juarez filed a workers compensation claim with Federal Insurance  
8 Company in connection with an alleged "on the job injury". In the course of  
9 processing Mr. Juarez' claim, an initial expense of \$16,149.96 had been incurred for  
10 which both plaintiff and defense counsel were notified on January 18, 2018 of said  
11 lien interest. (see attached Exhibit A.)

12       5. On or about November 2018 the amount had increased to \$28,107.00 for  
13 which an amended notice workers compensation lien was served on both plaintiff and  
14 defense counsel dated November 15, 2018 and November 16, 2018 (see attached  
15 Exhibit B)

16       6. Since that date I have been in touch with the counsel for plaintiff as to  
17 the status of settlement negotiations and have expressed my desire to be a part of any  
18 mediation proceedings and to be kept abreast as to settlement negotiations, reminding  
19 plaintiff counsel of Federal Insurance Company's lien rights.

20       7. During a recent check of this Court's docket, this Declarant identified a  
21 Notice of Settlement from the parties and the docket entry reporting that the case had  
22 been settled. My office had not been notified of the mediation or of the settlement let  
23 alone been served with the Notice of Settlement which was filed with this Court.

24       8. California Labor Code section 3860(a) requires that the Plaintiff notify  
25 the lien holder of any settlement to avoid prejudicing its lien rights of  
26 recovery. Failure to so notify may nullify the validity of the settlement agreement.

27       ///

1 9. California Labor Code section 3860 (a) states as follows:

2 " (a) No release or settlement under this chapter, with or without suit, is  
3 valid or binding as to any party thereto without notice to both the  
4 employer and employee with the opportunity to the employer to recover  
5 the amount of compensation he has paid or becomes obligated to pay  
6 and any special damages to which he may be entitled under Section  
7 3852, and the opportunity to the employee to recover all damages he has  
8 suffered and provision for determination of expenses and attorney fees  
9 as herein provided."

10 10. It is submitted that the settlement between the parties is invalid and has  
11 not been finalized and that Plaintiff's action should not be dismissed until the workers  
12 compensation lien issue has been resolved.

13 Executed on this 12th day of March, 2019, at Los Angeles, California.

14 I declare under penalty of perjury of the State of California that the forgoing  
15 statements are true and correct to the best of my knowledge.

16   
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Benjamin H. Seal II

**1** **PROOF OF SERVICE**

**2** **SPACE EXPLORATION TECHNOLOGIES CORP.**  
**3** **2:17cv03342-ODW-GJS**

**4** **STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

**5** At the time of service, I was over 18 years of age and not a party to this action.  
**6** I am employed in the County of Los Angeles, State of California. My business  
**7** address is 801 South Grand Avenue, Ninth Floor, Los Angeles, CA 90017-4613.

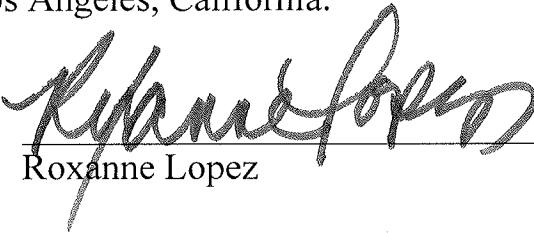
**8** On March 14, 2019, I served true copies of the following document(s)  
**9** described as **AMENDED NOTICE OF PLAINTIFF'S FAILURE TO NOTIFY**  
**10** **WORKERS COMPENSATION LIEN HOLDER OF SETTLEMENT PER**  
**11** **CALIFORNIA LABOR CODE 3860A AND DECLARATION OF BENJAMIN**  
**12** **H. SEAL II, LIEN HOLDER COUNSEL IN SUPPORT OF SAID NOTICE.** on  
the interested parties in this action as follows:

**13** **SEE ATTACHED SERVICE LIST**

**14** **BY E-MAIL OR ELECTRONIC TRANSMISSION:** Pursuant to the E-Filing  
System of the United States District Court, Central District District of California, to  
the parties at the e-mail addresses on the Court's website.

**15** I declare under penalty of perjury under the laws of the United States of  
America that the foregoing is true and correct and that I am employed in the office of  
a member of the bar of this Court at whose direction the service was made.

**16** Executed on March 14, 2019, at Los Angeles, California.

**17**   
Roxanne Lopez

**18**  
**19**  
**20**  
**21**  
**22**  
**23**  
**24**  
**25**  
**26**  
**27**  
**28**

**SERVICE LIST**  
**SPACE EXPLORATION TECHNOLOGIES CORP.**  
**2:17cv03342-ODW-GJS**

Andrew J. Spielberger, Esq. Attorneys for Plaintiffs, RUBEN  
Kahren Harutyunyan; Daniel K. Balaban; JUAREZ AND ISELA HERNANDEZ  
Vanessa L. Loftus-Brewer  
Balaban & Spielberger, LLP  
11999 San Vicente Boulevard  
Suite 345  
Los Angeles, CA 90049  
Telephone: 424-832-7677  
Facsimile: 424-832-7702

8      Teresa Li, Esq.  
9      Law Offices of Teresa Li, PC  
10     5674 Stoneridge Dr., Ste 107  
11     Pleasanton, CA 94588  
12     Telephone: 415-423-3377  
13     Facsimile: 888-646-5493  
14  
15     Attorneys for Plaintiffs, RUBEN  
16     JUAREZ and ISELA HERNANDEZ

11 Alex Hernaez, Esq. Attorneys for Movant, SPACEX  
12 Tiana R. Harding, Esq.  
13 Fox Rothschild, LLP  
14 345 California St., Ste 2200  
San Francisco, CA 94104  
Telephone: 415-364-5540  
Facsimile: 415-391-4436

13 Shahrad Milanfar, Esq.  
14 Alexander Paul Catalona, Esq.  
15 Becherer Kannett and Schweitzer  
16 1255 Powell Street  
17 Emeryville, CA 94608  
18 Telephone: 510-658-3600  
Facsimile: 510-658-1151  
19  
20 Attorneys for Defendant, PRECISION  
21 VALVE and AUTOMATION, INC.

19 Robert Robin, Esq.  
20 Robert Robin & Associates  
825 S. Primrose Ave., Ste C  
21 Monrovia, CA 91016  
Telephone: (626)568-9800  
22 Facsimile: (626)408-5967

**Courtesy Copy by mail only:**

## Attorney for Space Exploration Technologies Corp.(aka SpaceX)